



February 13, 2008

ENGROSSED HOUSE BILL No. 1197

DIGEST OF HB 1197 (Updated February 12, 2008 11:29 am - DI 106)

Citations Affected: IC 4-6; IC 24-4.9.

Synopsis: Data breaches. Authorizes the attorney general to initiate a program to educate consumers of risks posed by a security breach. Provides, for purposes of the law requiring the disclosure of a breach of the security of a system, that the unauthorized acquisition of a portable electronic device on which personal information is stored does not constitute a breach of the security of a system if the contents of the portable electronic device are encrypted and if the encryption key is not compromised.

Effective: July 1, 2008.

Pierce, Dermody, Walorski, Koch

(SENATE SPONSORS — HERSHMAN, BRODEN)

January 10, 2008, read first time and referred to Committee on Technology, Research and Development.

January 16, 2008, amended, reported — Do Pass.

January 24, 2008, read second time, amended, ordered engrossed.

January 25, 2008, engrossed.

January 28, 2008, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 12, 2008, amended, reported favorably — Do Pass.

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February 13, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1197

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-9-7.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 7.5. The division may initiate and maintain an**
4 **educational program to inform consumers of:**

5 (1) **risks involved in a breach of the security of a system; and**

6 (2) **steps that the victim of a security breach should take to**
7 **prevent and mitigate the damage from the security breach.**

8 SECTION 2. IC 24-4.9-2-2, AS ADDED BY P.L.125-2006,
9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2008]: Sec. 2. (a) "Breach of the security of a system" means
11 unauthorized acquisition of computerized data that compromises the
12 security, confidentiality, or integrity of personal information
13 maintained by a person. The term includes the unauthorized acquisition
14 of computerized data that have been transferred to another medium,
15 including paper, microfilm, or a similar medium, even if the transferred
16 data are no longer in a computerized format.

17 (b) The term does not include the following:

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- 1 (1) Good faith acquisition of personal information by an employee
2 or agent of the person for lawful purposes of the person, if the
3 personal information is not used or subject to further unauthorized
4 disclosure.
- 5 (2) Unauthorized acquisition of a portable electronic device on
6 which personal information is stored, if ~~access to the device all~~
7 **personal information on the device** is protected by a ~~password~~
8 **that encryption and the encryption key:**
- 9 (A) has not been **compromised or** disclosed; and
- 10 (B) **is not in the possession of or known to the person who,**
- 11 **without authorization, acquired or has access to the**
- 12 **portable electronic device.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1197, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 12, before "mitigate" insert "**prevent and**".

and when so amended that said bill do pass.

(Reference is to HB 1197 as introduced.)

RESKE, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1197 be amended to read as follows:

Page 3, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 4. IC 24-4.9-2-10, AS ADDED BY P.L.125-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. "Personal information" means:

- (1) a Social Security number that is not encrypted or redacted; or
- (2) an individual's first and last names, or first initial and last name, and one (1) or more of the following data elements that are not encrypted or redacted:

(A) A driver's license number.

(B) A state identification card number.

(C) A credit card number.

(D) A financial account number or debit card number in combination with a security code, password, **expiration date**, or access code that would permit access to the person's account.

The term does not include information that is lawfully obtained from publicly available information or from federal, state, or local government records lawfully made available to the general public."

Renumber all SECTIONS consecutively.

(Reference is to HB 1197 as printed January 17, 2008.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1197, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "(a) Subject to subsection (d), if a data base owner".

Page 1, delete lines 4 through 17.

Page 2, delete lines 1 through 7.

Page 2, line 8 delete "(c)".

Page 2, delete lines 13 through 20.

Delete pages 3 through 5.

and when so amended that said bill do pass.

(Reference is to HB 1197 as reprinted January 25, 2008.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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